IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.1344/06
V. Ramchandran Vs. D.K. Srivastava & Anr.

Date of order : 13/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri N.C. Sharma with
Ms. Prerna Mishra)for the petitioner.
Shri Shailendra Srivastava for the respondent.

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This writ petition has been filed against the order dated 7.1.2006 whereby the application of the defendant-petitioner filed under Order 7 Rule 11 was dismissed with the observation that whether or not Union of India should be impleaded as party shall be decided on the basis of issues framed. It is contended by learned counsel for the petitioner that whatever business was undertaken by the petitioner was in the capacity of Officer of Union of India and therefore without imleading Union of India the suit could

not be filed merely against the petitioner as he has taken the actions in due discharge of his duties. The matter was argued on 10.10.2007 on which date, the learned counsel for the petitioner has informed that Court has already framed the issues. Issue no.4 was framed to the effect whether or not Union of India in whose absence the suit is not maintainable and therefore it was prayed that issue be framed as primary issue.

Having heard learned counsel counsel for the parties and perused the material on record, I find that the suit has been filed against the petitioner-plaintiff of his actions when he was holding the office of Union of India and therefore the effect of the ultimate determination that has been made on issue no.4 would go to the root of the case.

It is considered appropriate that

issue no.4 is tried as preliminary issue being other issues tried. Hence the writ petition is partly allowed. I is directed that the learned trial court shall proceed to determine and decide the issue no.4 as the preliminary issue and thereafter proceed on other issues.

(MOHAMMAD RAFIQ), J.

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